

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

JASMINE DOVE ANNA GRAHAM
SIRCHARLES MARC-ANTHONY
JONES, and SAVANNAH JADE-
MARIE MULLEN,

Plaintiff,

v.

PORTLAND PUBLIC SCHOOL
DISTRICT #1J, JOLEEN PATTERSON,
KARL LOGAN, CAROL SMITH,
KRISTIE CUNIN, T.J. FULLER, RUTH
TUCKER, TAMMY JACKSON, and
CARLA RANDALL

Defendants.

Case No.:3:13-CV-00911-AC

FINDINGS &
RECOMMENDATION

ACOSTA, Magistrate Judge:

Pro se plaintiff Jasmine Dove Anna Graham (“Graham”) filed this action on behalf of herself and her two minor children against Defendants for race discrimination, intentional infliction of

emotional distress, defamation, and violations of the Individuals with Disabilities in Education Act. The court has attempted on several occasions to appoint pro bono counsel to assist Graham in pursuing her claims. However, each of those attorneys declined pro bono appointment and, on October 22, 2013, the court ordered that Graham proceed pro se. (Dkt. No. 43.) The court mailed to Graham each pro bono termination form as well as the court's October 22, 2013 order, but each was returned as undeliverable. (Dkt. Nos. 44, 46, 48.) The court telephoned graham on November 26, 2013, "and she stated she [was] receiving other mail in her box, and [would] follow up by contacting the Apartment management staff and the . . . post office." (Dkt. Entry for Nov. 26, 2013.) In April 2014, Graham filed an amended complaint and the Defendants moved to dismiss for failure to state a claim. (Dkt. No 57, 60.) Thereafter, the court issued several scheduling orders setting deadlines for Defendant's Motion to Dismiss. (Dkt. Nos. 59, 61.) Those orders were mailed to Graham, but unlike previous court mailings, these were not returned as undeliverable. (Dkt. No. 63.) On August 25, 2014, Graham filed with the court a Notice of Documents to be Considered, which the court construed as Graham's response to Defendants' Motion to Dismiss. (Dkt. No 64.)

On February 9, 2015, the court issued a Findings and Recommendations ("F&R") in which it recommended granting Defendants' Motion to Dismiss, dismissing Graham's children's claims without prejudice, and dismissing all of Graham's claims "without prejudice, with the exception of her Title VI claim, which is futile when predicated on the facts alleged in the first amended complaint." (Dkt. No. 66.) In March 2015, Judge Simon issued an order adopting the F&R as his own. (Dkt. No. 69.) The court mailed Judge Simon's order as well as a March 5, 2015 scheduling order setting a deadline for Graham to file an amended complaint, but they were both returned as undeliverable. (Dkt. Nos. 76, 77.) However, on April 14, 2015, Graham moved for an extension of

time to file an amended complaint, demonstrating that she received notice of the court's decision granting her leave to amend. (Dkt. No. 74.) The court granted Graham's motion to extend, which was also returned as undeliverable. (Dkt. No. 75.) A message on the returned letter read: "moved, left no address, unable to forward." (Dkt. No. 78.)

On May 4, 2015, Graham called the clerk's office to ask about the deadline for her to amend her claims. (Dkt. Entry for May 5, 2015.) The clerk's office employee who spoke to Graham emailed her the court's order extending the deadline and advised her to file a change of address form. (*Id.*) No change of address form was forthcoming. The court then attempted to call Graham at the telephone number listed in the court's records, but the calls went unanswered and the Spanish-language voicemail did not indicate whether the number belonged to Graham. Since then, the deadline for Graham to file her amended complaint has passed and the court has been unable to contact Graham. (Dkt. Entry for May 20, 2015.) On June 10, 2015, the court issued an order to show cause and set a show-cause hearing on July 6, 2015. (Dkt. No. 79.) The order to show cause was twice returned to the court as undeliverable. (Dkt. No. 80, 83.) The court held a hearing in court on July 6, 2015, but Graham did not appear or otherwise respond to the court's order. (Dkt. No. 84.)

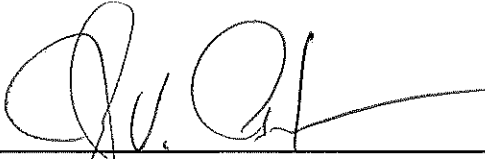
Conclusion

Pursuant to the court's order to show cause (Dkt. No. 79), the court should DISMISS Graham's claims with prejudice and enter a judgment in Defendants' favor. However, Graham's children's claims should remain dismissed without prejudice to allow them to refile their claims when they are represented by an attorney or reach the age of majority.

Scheduling Order

The above Findings and Recommendation will be referred to a United States District Judge for review. Objections, if any, are due July 22, 2015. If no objections are filed, review of the Findings and Recommendation will go under advisement on that date. If objections are filed, a response to the objections is due fourteen days after the date the objections are filed and the review of the Findings and Recommendation will go under advisement on that date.

DATED this 8th Day of July, 2015.



JOHN V. ACOSTA
United States Magistrate Judge